

Retaining Walls - Who Pays?

Introduction

This brochure provides information about who is responsible for the construction of a retaining wall, sharing the cost of retaining walls with a neighbour, and three typical examples of retaining wall construction are shown to demonstrate this.

Council Approval

Please remember that, in most cases, excavation and filling of land and associated retaining walls will need Council Approval, as the work is associated with the construction of a building or other structure. Details of proposed earthworks and retaining walls should therefore be detailed as part of a Development Application for the construction of the building.

Retaining walls that are proposed, not to facilitate construction of a building but only to enhance landscaped gardens of an existing home for example, will also require Council Approval if any of the following circumstances apply:

- The property is in the Hills Face Zone or the Residential Watercourse Policy Area 19.
- The property is a State Heritage Place.
- The property is a Local Heritage Place
- The retaining wall retains a difference in ground level exceeding one metre or, two retaining walls or a series of retaining walls, are used together in a tiered fashion to retain an overall difference in ground level exceeding one metre.
- The total height of a retaining wall with fence above exceeds 2.1m (measured to the lowest side).

If you propose to excavate or fill your land, or construct retaining walls, it is therefore advisable to contact the Council to discuss your proposal, as Council Approval may be required.

Who is responsible for a retaining wall?

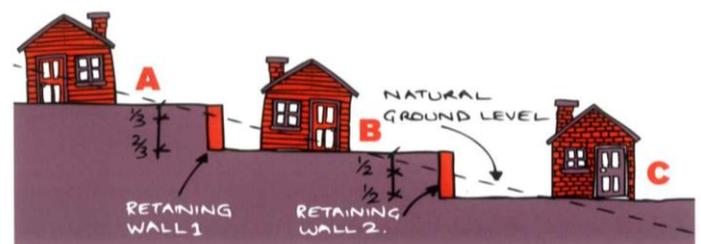
As a 'rule of thumb' a property owner is responsible for retaining any earth that they have altered from the natural ground level. This could be fill placed on top of natural ground level or an excavation below natural ground level.



Sharing costs of a retaining wall

It is generally more practical and economical to construct one retaining wall between two properties (as shown in Example 1), instead of each owner constructing separate retaining walls (as shown in Examples 2 and 3). Property owners should therefore discuss their proposals to excavate, fill and retain along boundaries with their neighbours in the planning stages.

Example 1



Retaining Wall 1:

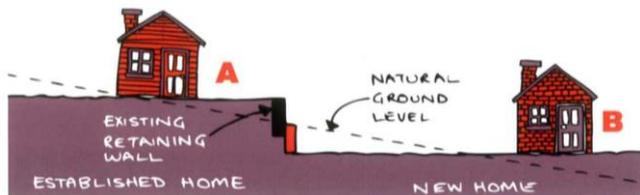
- Owner A will be responsible for one third of the cost of retaining wall 1
- Owner B will be responsible for two thirds of the cost of retaining wall 1

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Retaining Wall 2:

- Owner B will be responsible for half the cost of retaining wall 2
- Owner C will be responsible for half the cost of retaining wall 2

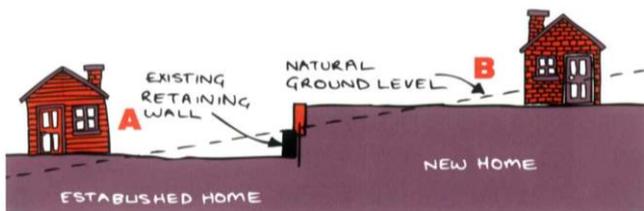
Example 2



Owner B will have to construct a retaining wall that can support their proposed excavation as well as Owner A's existing retaining wall.

Note that in this example, Owner A's existing retaining wall should have been built to allow for some excavation on the adjoining property without affecting the stability of the retaining wall.

Example 3



Owner B will have to construct a retaining wall that can support their proposed fill without overloading the existing retaining wall. This may, for example, require piers founded below the level of the existing retaining wall. You should speak to an engineer about this.

Neighbour Disputes

Council does not have powers to determine who pays costs associated with fencing and retaining walls. If you and your neighbour are unable to agree on sharing of costs, you should contact one of the following for further advice:

- The Legal Services Commission
www.lsc.sa.gov.au
82-98 Wakefield St, Adelaide
Ph: 8463 3555
- A Community Legal Centre
Central - 21 May St, Sefton Park,
Ph: 8342 1800
Southern - 40 Beach Rd, Christies Beach, Ph:
8384 5222; or
- A private lawyer

Alternatively, you can contact a Community Mediation Service (for an appointment telephone 8350 0376).

Easement and Encumbrances

The Certificate of Title for a property contains information regarding the location and nature of any easements and the details of any encumbrances that apply to the land.

If your proposed development extends over an easement or is affected by an encumbrance on your property, documentation must be submitted to the Council demonstrating that the authority controlling the easement (e.g. SA Water, ETSA etc) or the person(s) holding the encumbrance have approved the proposed structure.

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Significant Trees

Any work that may substantially damage or affect a significant tree or trees, whether on your property or an adjoining property, requires approval from the Council. For clarification on what a significant tree is and what are considered to be tree damaging activities, please refer to the City of Marion Information Brochure "*Significant Trees*".

Note that a tree damaging activity may occur as a result of work associated with excavation, filling or construction of a retaining wall that otherwise would not require approval (excavation and fill for example can affect root systems). In these cases a Development Application for tree damaging activities must be lodged with and approved by the Council before any work commences.

Want to Know More?

The above information is advisory only. It is intended to provide a guide and a general understanding of the key points associated with the particular topic. It is not a substitute for reading the relevant legislation or the Development Plan.

It is recommended that if you are intending to undertake development, you seek professional advice or contact the Council for any specific enquiries or for further assistance concerning the use and development of land.

Contact Details - City of Marion Development and Regulatory Services Division

245 Sturt Road
Sturt SA 5047

PO Box 21
Oaklands Park SA 5046

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Website <http://www.marion.sa.gov.au>

Acknowledgements

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